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R 021733Z DEC 76  
FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC 8084

ARGENTINA PROJECT (S200000044)  
U.S. DEPT. OF STATE, A/RPS/IPS  
Margaret P. Grafeld, Director  
(☒ Release) (☐ Excise) (☐ Deny)

Exemption(s):  
Declassify: (☐ In Part) (☒ In Full)  
(☐ Classify as) (☐ Extend as) (☐ Downgrade to)  
Date Declassify on Reason

[REDACTED] BUENOS AIRES 7850

E.O. 11652: GDS  
TAGS: PINS, PINT, SHUM, AR  
SUBJECT: HUMAN RIGHTS ROUND-UP NO. 6

1. FOUR ARGENTINE PRIESTS WERE DETAINED FOR QUESTIONING FOLLOWING A MASSIVE POLICE RAID ON A PRIVATE CATHOLIC GRADESCHOOL IN BUENOS AIRES' NORTHERN DISTRICT ON NOV. 29. THE PRIESTS HAD APPARENTLY BEEN DENOUNCED BY DISGRUNTLED PARENTS WHO OPPOSED THE "LEFTIST CONTENT" OF THEIR SERMONS AND RELIGIOUS INSTRUCTION IN THE SCHOOL. IT REMAINS UNCLEAR WHETHER POLICE FOUND SUBVERSIVE MATERIAL DURING THEIR FIVE-HOUR SEARCH OF THE SCHOOL AND ADJOINING CHURCH. APPARENTLY CONFLICT BETWEEN PARENTS AND SOME OF THE PRIESTS OVER RELIGIOUS TRAINING HAD BEEN GROWING SINCE LAST APRIL. TWO MONTHS AGO THE SCHOOL WAS INVESTIGATED BY POLICE FOLLOWING A COMPLAINT THAT SOME OF THE TEACHERS WERE "SUBVERSIVES." THE ACCUSATIONS WERE NOT SUBSTANTIATED. THE BA HERALD (DEC. 1) CALLED THE RAID AND SUBSEQUENT NEWSPAPER ACCUSATIONS AGAINST THE PRIESTS PREPOSTEROUS AND DANGEROUSLY SIMILAR TO EXTREMIST-STYLE WITCH HUNTS.

2. ARGENTINE POSTULANT PRIEST PABLO GAZZARRI REPORTEDLY DISAPPEARED NOV. 28. HE WAS TO HAVE BEEN ORDAINED IN TO THE FRENCH ORDER OF LITTLE BROTHERS OF CHARLES FOCOULD, THE ORDER OF WORKING PRIESTS WHICH INCLUDES IRISH PRIEST PATRICK RICE. RICE IS STILL UNDER DETENTION IN LA PLATA PRISON BUT IRISH EMBASSY SOURCES DEC. 1 REPORTED AN EXPULSION ORDER HAS BEEN ISSUED AND HE IS EXPECTED TO BE DEPORTED SOON.

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3. A NEW LAW AUTHORIZING THE ESTABLISHMENT OF SPECIAL MILITARY COURTS MARTIAL TO TRY PERSONS ACCUSED OF SUBVERSIVE CRIMES WENT INTO EFFECT MONDAY NOV. 29. THE LAW ALSO EXTENDS THE JURISDICTION OF MILITARY COURTS MARTIAL TO COVER A NUMBER OF LESSER OFFENSES FORMERLY TRIED BY CIVILIAN COURTS, INCLUDING AIDING AND ABETTING, INCITATION TO VIOLENCE, INTENT TO COMMIT CRIMES AGAINST NATIONAL SECURITY, ETC. IT REPLACES THREE OTHER LAWS GOVERNING TRIALS FOR CRIMES OF SUBVERSION. UNDER THE LAW, EACH REGIONAL COMMANDER IS EMPOWERED TO SET UP "SPECIAL, PERMANENT COURTS MARTIAL" WHEN AND AS HE SEES FIT. THE ONLY DETAIL STIPULATED IN THE LAW IS THAT THE RANK OF THE PRESIDING OFFICER MUST CORRESPOND TO THE SEVERITY OF THE SENTENCE FACED BY THE ACCUSED. SUSPECTS WHO FACE THE DEATH SENTENCE WILL BE JUDGED BY A COURT PRESIDED OVER BY A GENERAL; INCASES INVOLVING LESSER PENALTIES, LOWER RANKING OFFICERS MAY PRESIDE. ACCORDING TO THE MINISTRY OF JUSTICE, THE MILITARY TRIAL SYSTEM WILL PERMIT "MORE RAPID AND EFFICIENT REPRESSION OF SUBVERSIVE CRIMES, AND WITH THE NECESSARY SEVERITY." (COMMENT: ESSENTIALLY THE LAW EXPANDS THE AUTHORITY AND LEGITIMACY TO THE MILITARY COURTS MARTIAL SYSTEM WHICH WAS AUTHORIZED TO TRY CIVILIANS ON SUBVERSIVE CHARGES BY THE MILITARY GOVT SHORTLY AFTER THE MARCH COUP. IT ALSO APPEARS TO BE AN EFFORT TO STREAMLINE AND QUICKEN THE JUDICIAL PROCESS IN SUBVERSIVE CASES, WHICH HAVE FREQUENTLY DRAGGED ON IN CIVILIAN CRIMINAL COURTS FOR YEARS.)

4. TWO OTHER LAWS CONCERNING TRIAL PROCEDURES FOR SUBVERSIVE CRIMES WERE ALSO APPROVED RECENTLY (NOV. 19). LAW 21.459 AMENDS THE NATIONAL SECURITY LAW 20.840 OF SEPTEMBER 1974, PROVIDING FOR STIFFER SENTENCES FOR A NUMBER OF CRIMES AGAINST NATIONAL SECURITY, INCLUDING ILLEGAL LABOR ACTIVITY AND PUBLISHING HOUSES THE PRINT SUBVERSIVE MATERIAL. LAW 21.460 AUTHORIZES THE ARMED FORCES AND SECURITY FORCES TO INVESTIGATE CRIMES OF A SUBVERSIVE NATURE THROUGH A SUMMARY PRETRIAL. THE LAW GIVES SECURITY PERSONNEL EXPRESS AUTHORITY TO ARREST PERSONS WHO APPEAR TO BE IMPLICATED IN SUBVERSIVE CRIMES AND TO COLLECT EVIDENCE FOR PRESENTATION TO A PRETRIAL JUDGE, WHO WILL BE AN OFFICER ASSIGNED BY THE POLICE OR MILITARY BRANCH INVESTIGATING THE SPECIFIC CRIME. THE JUDGE IS TO MAKE A PRELIMINARY FINDING ON THE CASE, ORDER THE RELEASE OR DETENTION OF THE ACCUSED, AND REFER THE CASE TO THE AREA MILITARY COMMANDER WHO WILL FORWARD

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IT TO THE APPROPRIATE COURT. SIGNIFICANTLY, THE LAW HOLDS THAT THE TESTIMONY AND OTHER PROOF GATHERED DURING THE SUMMARY PRETRIAL WILL HAVE "FULL PROBATORY VALUE WITHOUT ANY NEED FOR CONFIRMATION AND AS LONG AS THERE IS NOT PROOF TO THE CONTRARY." (COMMENT: FOR THE MOST PART, THE FOREGOING LAW SIMPLY LEGITIMIZES WHAT THE SECURITY FORCES HAVE BEEN DOING ALL ALONG IN INVESTIGATION OF SUBVERSIVE CRIMES, I.E. ARRESTING SUSPECTS AND CONDUCTING SEARCHES WITHOUT WARRANTS, ETC. THE SUMMARY PRETRIAL PROVIDES LEGAL BACKING FOR THE CURRENT PRACTICE OF HOLDING SUSPECTED SUBVERSIVES WITHOUT CHARGE (AND OFTEN WITHOUT ADMITTING IT OR INFORMING THE FAMILY) WHILE THE INVESTIGATION GOES ON. THE "PREVENTATIVE ARREST" STAGE NOW BECOMES THE MORE RESPECTABLE "SUMMARY PRETRIAL" STAGE. MORE DISTURBING IS THE FINAL PROVISION OF THE LAW CONCERNING EVIDENCE AND TESTIMONY COLLECTED DURING THE PRETRIAL. HOW SECRET THIS INFORMATION WILL BE AND HOW IT MAY BE USED IN SUBSEQUENT TRIALS REMAIN TO BE SEEN.)

5. ARMY COLONEL LEONARD ROBERTO D'AMICO WAS KILLED YESTERDAY (DEC. 1) IN A TERRORIST AMBUSH IN BUENOS AIRES AS HE WAS TAKING HIS TWO CHILDREN TO SCHOOL. HIS DRIVER WAS BADLY INJURED IN THE ATTACK BY EIGHT ARMED GUNMEN, ACCORDING TO POLICE REPORTS. TWO CIVILIANS WERE KILLED AND SEVERAL OTHERS WOUNDED IN A SHOOTOUT IN A CROWDED BUS IN SANTA FE YESTERDAY AS POLICE CHASED AFTER THREE TERRORISTS WHO ATTEMPTED TO THROW A HAND GRENADE OUT OF THE BUS.

6. A TOTAL OF 130 SUSPECTED SUBVERSIVES WERE OFFICIALLY REPORTED. KILLED IN CONFRONTATIONS WITH SECURITY FORCES DURING THE MONTH OF NOVEMBER. ABOUT 100 WERE KILLED IN THE LA PLATA AREA ALONE. SEVEN PERSONS, INCLUDING FOUR WHO WERE IDENTIFIED IN AN ARMY COMMUNIQUE AS BEING THE TOP LEADERS OF A MONTONERO CELL IN LA PLATA WERE KILLED IN THAT CITY ON NOV. 22. ACCORDING TO THE COMMUNIQUE, THE MILITARY OPERATION UNCOVERED CONSIDERABLE QUANTITIES OF FIREARMS, EXPLOSIVES AND AMMUNITION AND EFFECTIVELY DESTROYED THE TERRORIST GROUP'S OPERATIONAL CAPABILITY.

7. A WOMAN WAS INJURED NOV. 24 WHEN A BOMB SHE WAS CARRYING EXPLODED PREMATURELY IN HER HANDS IN THE COLON OPERA HOUSE. SHE WAS APPARENTLY ATTEMPTING TO THROW THE BOMB ON STAGE DURING AN OPERA PERFORMANCE. POLICE ARRESTED THE WOMAN. THE SAME DAY A  
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MAN WAS INJURED WHEN A BOMB HE WAS CARRYING BLEW UP IN HIS FACE IN THE DOWNTOWN BANKING DISTRICT.

8. AN ARMY COMMUNIQUE RELEASED NOV. 26 IN MAR DEL PLATA LISTED 59 "FUGITIVES" WHO WERE BEING SOUGHT FOR SUBVERSIVE CRIMES AND ASKED THE LOCAL POPULATION TO ASSIST THE SECURITY FORCES IN THEIR ARREST.

9. FOREIGN REFUGEES CONTINUE TO LEAVE ARGENTINA AT THE RATE OF 250 TO 300 A MONTH, ACCORDING TO THE INTER-GOVERNMENTAL COMMITTEE ON EUROPEAN IMMIGRATION (ICEM). UNCHR OFFICIALS TOLD EMBOFFS LAST WEEK (NOV. 22) THAT IT HAD APPROXIMATELY 1,200 VISA OFFERS REMAINING, INCLUDING NOW THOSE FROM THE US, BUT THAT THERE ARE STILL ABOUT 10,000 REFUGEES ANXIOUS TO RESETTLE OUTSIDE ARGENTINA. THERE HAVE BEEN NO REPORTED ATTACKS AGAINST REFUGEE GROUPS IN RECENT MONTHS.

10. GOA HAS EXTENDED THE TWO MONTH DEADLINE FOR ILLEGAL ALIENS TO REGISTER WITH IMMIGRATION AUTHORITIES. FORMINISTRY OFFICIAL TOLD EMBOFF NOV. 30 THAT LESS THAN 1,000 HAVE REGISTERED SO FAR (OUT OF AN ESTIMATED 500,000--MOST OF THEM MIGRANT WORKERS). ALTHOUGH THE PENALTY FOR NON-REGISTRATION WAS NOT SPECIFIED, THE OFFICIAL REITERATED GOA POLICY NOT TO FORCEABLY REPATRIATE ASYLEES WHO ARE IN ARGENTINA FOR POLITICAL REASONS.

11. THE ARGENTINA SUPREME COURT ON NOV. 16 RULED THAT THE INSTITUTIONAL ACT SUSPENDING THE CONSTITUTIONAL RIGHTS TO OPT TO LEAVE THE COUNTRY IS VALID. IN REJECTING AN APPEAL BY MARIA CRISTINA ERCOLI TO EXERCISE HER RIGHT OF OPTION, THE COURT STATED THAT THE "PRINCIPLES, GUARANTEES AND RIGHTS RECOGNIZED BY THE CONSTITUTION ARE NOT ABSOLUTE AND, AS LONG AS THEY ARE NOT ALTERED SUBSTANTIALLY, ARE SUBJECT TO THE LAWS THAT REGULATE THEIR IMPLEMENTATION". (COMMENT: THE PRINCIPLE THAT DECREE-LAWS OF DE FACTO GOVERNMENTS SUPERSEDE PREVIOUS LEGISLATION AND EVEN THE CONSTITUTION IS GENERALLY ACCEPTED AND HAS BEEN UPHELD BY THE COURTS IN THE PAST. HOWEVER, THIS IS THE FIRST OCCASION THAT THE SUPREME COURT HAS FORMALLY REAFFIRMED THE PRINCIPLE SINCE THE ARMED FORCES TOOK OVER THE GOVT IN MARCH.)  
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